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June 30, 2016

Hon. Ramon E. Reyes, Jr.
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201
Via ECF

Re: Nancy Cruz v. Target Corporation *et ano*
Docket #: 1:14-cv-02728-JWB-RER
Our File: TARG-512

Dear Magistrate Reyes:

We represent the defendants Target Corporation and Target Stores, Inc., (“Target”) in this matter. Pursuant to your decision of June 2, 2016 the parties have conferenced and jointly request the following discovery schedule, including expert discovery.

Additional Discovery Required:

Plaintiff utilized a liability ‘expert’, Jerry Birnbach, in opposing defendants’ motion for summary judgment. Plaintiff should provide a FRCP 26 compliant expert exchange by July 29, 2016, and a deposition is required for Mr. Birnbach, which should be completed by October 14, 2016.

Additionally, defendants previously requested plaintiff supplement her Expert Disclosure as defendants deemed it deficient under FRCP 26(a)(2)(b). Due to the expert discovery stay that supplementation remains outstanding. Plaintiff should supplement their prior exchange by July 29, 2016.

Defendants intend to depose one or more of plaintiff’s experts. A determination as to the number to depose, or the identity of a particular expert or experts to depose cannot be made until the supplemental Expert Disclosures are received from plaintiff and the outstanding medical records are obtained. Absent this information defendants are unable to meaningfully conduct such a deposition. However, assuming the exchange it is anticipated that these physician depositions could take place by October 14, 2016.

Defendants have advised plaintiff by letter that Dr. Robert L. Michaels has been retained as an expert. Defendants will request that plaintiff appear for an independent medical examination by August 19, 2016 (assuming Dr. Michael's schedule permits). Thereafter, the defendants need to conduct a formal exchange when the Physical Examination of plaintiff is completed pursuant to FRCP 35.

Plaintiff wishes to depose Dr. Michaels, after receipt of the appropriate exchange. Should defendant designate and exchange further experts, plaintiff wishes to also conduct those depositions.

We have consulted with plaintiff's counsel regarding these requests and the proposed dates. **Plaintiff's counsel has consented to and joins in these requests.**

Plaintiff wishes to make an application with respect to the Court's Order of March 30, 2015, regarding the closure of fact discovery and the striking of certain fact discovery requests of plaintiff. Defendant opposes any application to re-open fact discovery.

Thank you for your courtesy.

Very truly yours,

MOLOD SPITZ & DeSANTIS, P.C.

By: /s/
ALICE SPITZ

AS:ol
Encl.

cc via ECF and email:

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NANCY CRUZ,

Plaintiff,

Case No.: 1:14-cv-02728-JWB-RER

-against-

Proposed Revised Scheduling Order

TARGET CORPORATION and
TARGET STORES, INC.,

Defendant.

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|----|--|--------------------|
| 1. | Date for completion of factual discovery: | Completed |
| 2. | Date for completion of plaintiff's expert disclosure: | July 29, 2016 |
| 3. | Date for completion of defendants' rebuttal expert disclosure: | September 16, 2016 |
| 4. | Date for completion of expert depositions: | October 14, 2016 |
| 5. | Date for filing/serving dispositive motions: | Completed |
| 6. | Proposed date for conference: | September 14, 2016 |
| 7. | Proposed date for final pre-trial conference: | November 4, 2016 |